IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

First Appeal No. 400 of 2001
(Old No. D-06 of 1998)

State of U.P.
Through the Collector,
Haridwar

…….. Defendant - Appellant

Versus

Sri Bhism Giri Goswami
S/o Mahant Atma Giri Goswami
R/o Village and Post Toda Kalyanpur,
Pargana & Tehsli Roorkee,
District Haridwar.

…….Claimant Respondent

Mr. R.C. Arya, learned Standing Counsel for the appellant-State.
None for the claimant – respondent.

Hon'ble Prafulla C. Pant, J.

This is delay condonation applicant moved on behalf of the State, in filing the appeal under Section 54 of the Land Acquisition Act, 1894, against the award dated 01.10.1994 passed in Land Acquisition Case No. 03 of 1992.

2) Heard learned Standing Counsel for the State.

3) There is delay of three years and 18 days in filing the appeal. An attempt has been made in the affidavit sworn in by Mr. R.K. Singhal (the then, Special Land Acquisition Officer) filed with the delay condonation application to explain the delay

4) A counter affidavit has been filed on behalf of the respondent disputing the contents of the affidavit on behalf of the State authority.

5) I have gone through the affidavit, counter affidavit and rejoinder affidavit filed in this appeal. The impugned order was passed on 01.10.1994. The sanction from the State Government to file the appeal was received on 25th January, 1996. Thereafter, the State (appellant) remained sleeping for almost two years and the only explanation as to the delay is that reminders were sent to the Government continuously. The appeal was finally filed with this delay condonation application on 19th January, 1998.

6) In the circumstances of the case, it cannot be said if delay in filing the appeal is sufficiently explained by the appellant. No doubt, the Court should adopt a liberal approach in condoning the delay when it pertains to the State or a public authority, which has no personal interest in the matter, but that does not mean that such authority is exempted from the Limitation Act, 1963. The delay of more than three years is unusually long delay, which requires to be explained showing some exceptional circumstances, which is not the case here.

7) For the reasons, as discussed above, the application for condonation of delay is rejected. Also, the appeal is dismissed as barred by time. The stay application accompanying said appeal also stands rejected.

(Prafulla C. Pant, J.)

Dt: 1st March, 2006.
H.Negi